

STATE OF MAINE

Board of Overseers of the Bar
Grievance Commission

File No. 86-215

BOARD OF OVERSEERS OF THE BAR)	
vs.)	REPORT OF PROCEEDINGS, FINDING
)	OF FACT AND CONCLUSIONS
JAMES MARTIN DINEEN)	(PANEL C)

Procedural Matters

This matter came on for hearing on October 29, 1987 before Panel C of the Grievance Commission consisting of John P. Foster, Esq., C. R. deRochemont, and David B. Soule, Jr., Esq., Chairman. Bar counsel Karen G. Kingsley appeared on behalf of the Board. Respondent, James Martin Dineen, appeared in person and represented himself. Notice to all parties was proper. The hearing was a confidential hearing pursuant to Maine Bar Rule 7(e)(2) for the purpose of determining probable cause, if any, and this is the report of Panel C. There were no objections to the make up of the panel.

The petition, and exhibits attached thereto were received in evidence along with various other exhibits during the course of the hearing. Respondent was permitted to file additional stipulated exhibits by November 4, 1987 which were received in a timely fashion and admitted. As rebuttal, Bar counsel filed additional exhibits

which were received and admitted. Both parties were given an opportunity to file legal memoranda. Bar counsel filed a memorandum. Respondent did not file a memorandum. Respondent's answer was received by the Panel.

Findings of Fact

Upon review of the testimony of Respondent, the evidence presented by both parties and the entire record, the Panel makes the following relevant findings of fact:

1. Respondent was suspended from the practice of law for six months beginning June 26, 1986.

2. On October 22, 1986 Respondent filed with the Clerk of the Supreme Judicial Court an Affidavit in compliance with Maine Bar Rule 7(n)(2). Prior to October 22, 1986 Respondent had not filed anything to comply with said rule.

3. At all times relevant hereto, Respondent was not admitted to practice law in the State of New Hampshire. At all times relevant hereto, Respondent was admitted to practice law in good standing in the State of Nebraska.

4. During the time in which he was suspended from the practice of law in the State of Maine, Respondent did represent clients in the Courts of New Hampshire and did in fact practice law in that State.

5. During the time in which he was suspended from the practice of law in the State of Maine, Respondent utilized a letterhead in the following form:

JAMES MARTIN DINEEN
ATTORNEY AND COUNSELOR AT LAW
P. O. BOX 307
PORTSMOUTH, N. H. 03801

Conclusions

The panel concludes that there is probable cause to believe that the conduct of Respondent constituted a violation of Bar Rules 7(n)(2), 3.9(a), 3.2(f)(1) and 3.2(f)(3), to-wit:

1. Rule 7(n)(2) requires a suspended attorney to file an affidavit attesting compliance with Rule 7(n) within 30 days of the effective date of the suspension. The evidence reveals that no such affidavit was filed within 30 days and the panel, therefore, has no choice but to find a violation of Rule 7(n)(2). Respondent has presented testimony to the panel concerning various concurrent personal matters which, he argues, should excuse the untimely filing of the affidavit required by this rule. While these circumstances may be relevant in determining the appropriate sanction, the Board finds that the violation did in fact occur.

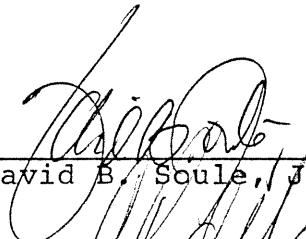
2. Rule 3.9(a). The panel finds that by using a letterhead in the form set forth in the above findings of fact, Respondent has violated Rule 3.9(a). The panel finds that, on its face, the Respondent's letterhead is a misleading and deceptive statement or

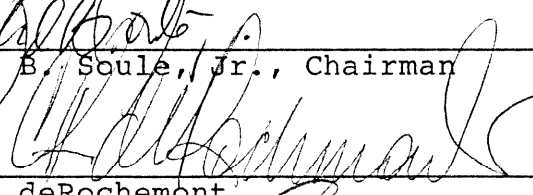
claim, leading the public to believe that Respondent was licensed to practice law in the State of New Hampshire.

Disposition

Following a finding that Respondent's conduct violated the Maine Bar Rules, the Panel opened the envelope containing a record of Respondent's past disciplinary record. Based upon Respondent's prior disciplinary record and on the foregoing findings and conclusions, the Panel finds that there is probable cause for the filing of an information requesting suspension or disbarment of Respondent.

Dated: 2/19/88


David B. Soule, Jr., Chairman


C. R. deRochemont


John P. Foster